



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
HUGUENOT WOODS, LLC
FOR
CANTERBURY FARMS SUBDIVISION
VPDES Permit No. VAR10
Registration No. VAR10K021**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, between the State Water Control Board and Huguenot Woods, LLC, regarding the Canterbury Farms Subdivision, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "2014 Permit" means the General VPDES Permit for Discharges of Stormwater from Construction Activities issued to Huguenot Woods, No. VAR10K021. The General VPDES Permit for Discharges of Stormwater from Construction Activities was promulgated at 9 VAC 25-880-70, and was issued under the State Water Control Law, the

VSMP Regulations, and the General Permit Regulation on July 1, 2014. The General Permit expired on June 30, 2019.

3. “2019 Permit” means the General VPDES Permit for Discharges of Stormwater from Construction Activities issued to Huguenot Woods, No. VAR10K021. The General VPDES Permit for Discharges of Stormwater from Construction Activities was promulgated at 9 VAC 25-880-70, and was issued under the State Water Control Law, the VSMP Regulations, and the General Permit Regulation on July 1, 2019. The General Permit expires on June 30, 2024.
4. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
5. “Construction activity” means any clearing, grading or excavation resulting in land disturbance of equal to or greater than one acre, or disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre.
6. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
7. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
8. “Discharge” means discharge of a pollutant. 9 VAC 25-31-10
9. “Discharge of a pollutant” when used with reference to the requirements of the VPDES permit program means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
10. “EPA” means Environmental Protection Agency.
11. “ESC” means erosion sediment control.
12. “Facility” or “Site” means the Canterbury Farms Subdivision, owned by Huguenot Woods, and located at the intersection of Huguenot Trail and Manakintown Ferry Road (37.5658, -77.7126), Powhatan, Virginia, from which discharges of stormwater associated with construction activity occur.

13. “General Permit Regulation” means the General VPDES Permit for Discharges of Stormwater from Construction Activities, 9 VAC 25-880-1 et seq.
14. “Huguenot Woods” means Huguenot Woods, LLC, a company authorized to do business in Virginia and its members, affiliates, partners, subsidiaries. Huguenot Woods is a “person” within the meaning of Va. Code § 62.1-44.3.
15. “Land disturbance” or “land-disturbing activity” means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include those exemptions specified in Va. Code § 62.1-44.15:34.
16. “Notice of Violation” or “NOV” means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
17. “Order” means this document, also known as a “Consent Order” or “Order by Consent,” a type of Special Order under the State Water Control Law.
18. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
19. “Registration Statement” means a registration statement for coverage under the General VPDES Permit for Discharges of Stormwater from Construction Activities. .
20. “State Water Control Law” means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
21. “State waters” means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
22. “Stormwater” means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage. Va. Code § 62.1-44.15:24.
23. “Stormwater management plan” means a document or series of documents containing material describing methods for complying with the requirements of a VSMP or the VSMP Regulations. 9 VAC 25-870-10.
24. “SWM” means stormwater management.
25. “SWPPP” means Stormwater Pollution Prevention Plan, which is a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under a VSMP for construction activities shall identify and require the implementation of control measures, and shall include, but not be limited to the

inclusion of, or the incorporation by reference of an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan. 9 VAC 25-870-10.

26. “TMDL” means total maximum daily load.
27. “Virginia Stormwater Management Act” means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Va. Code.
28. “Va. Code” means the Code of Virginia (1950), as amended.
29. “VAC” means the Virginia Administrative Code.
30. “VPDES” means Virginia Pollutant Discharge Elimination System.
31. “VSMP” means the Virginia Stormwater Management Program, which is a program approved by the Soil and Water Conservation Board after September 13, 2011, and until June 30, 2013, or the State Water Control Board on and after June 30, 2013, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations. Va. Code § 62.1-44.15:24.
32. “VSMP authority” means an authority approved by the Board after September 13, 2011, to operate a VSMP or, until such approval is given, the Department. An authority may include a locality; state entity, including the Department; federal entity; or for linear projects subject annual standards and specifications in accordance with subsection B of § 62.1-44.15-31, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102. Va. Code § 62.1-44.15:24.
33. “VSMP Regulations” means the Virginia Stormwater Management Program (VSMP) Regulations, 9 VAC 25-870-10 et seq.

SECTION C: Findings of Fact and Conclusions of Law

1. Huguenot Woods owns and operates the Facility located at the intersection of Huguenot Trail and Manakintown Ferry Road (37.5658, -77.7126), in Powhatan, Virginia, which discharges stormwater associated with construction activity.
2. The Department is the VSMP authority for the Site.

3. Huguenot Woods applied for and was granted coverage under the 2014 Permit and was assigned registration number VAR10K021. On April 10, 2020, Huguenot Woods was reissued coverage under the 2019 Permit.
4. The 2014 Permit allowed, and the 2019 Permit allows, Huguenot Woods to discharge stormwater associated with construction activities from the Facility to Bernard’s Creek, in strict compliance with the terms and conditions of the 2014 Permit and 2019 Permit.
5. During the 2018 305(b)/303(d) Integrated Water Quality Assessment, the tributary was not assessed for any designated use and is considered a Category 3A waterbody. The Site is located within the study area for the James River and Tributaries City of Richmond Bacterial TMDL (EPA approval November 4, 2010, Board approval June 29, 2012). The discharge from the Site was not addressed in the TMDL.
6. The Site is also located in the Chesapeake Bay watershed. The Chesapeake Bay TMDL was approved by the EPA on December 29, 2010. The TMDL allocates loads for total nitrogen, total phosphorus, and total suspended solids to protect the dissolved oxygen and submerged aquatic vegetation (SAV) criteria in the Chesapeake Bay and its tidal tributaries. The creek is a perennial, Tier 2 water that is designated as a Public Water Supply.
7. On September 18, 2018, DEQ staff conducted an inspection of the Site to determine compliance with the Virginia Stormwater Management Act, Regulations, and the 2014 Permit. The following describes staff observations and identifies applicable legal requirements:
 - a. DEQ staff observed that a Stormwater Pollution Prevention Plan (SWPPP) was not available on Site. A notice of the SWPPP’s location was not posted near the main entrance of the Site and there was no posted information near the main entrance of the construction site, for directing the public on gaining access to the SWPPP.

9 VAC 25-870-54(G) states “ The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. The SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site.

The 2014 Permit Part II (D)(3) states “The operator shall make the SWPPP available for public review in an electronic format or in hard copy. Information for public access to the SWPPP shall be posted and maintained in accordance with Part II C. If not provided electronically, public access to the SWPPP may be arranged upon request at a time and at a publicly accessible location convenient to the operator or his designee but shall be no less than once per month and shall be during normal business hours. Information not required to be contained within the SWPPP

by this general permit is not required to be released.

Part II (C) of the 2014 Permit states “Public Notification. Upon commencement of land disturbance, the operator shall post conspicuously a copy of the notice of coverage letter near the main entrance of the construction activity. For linear projects, the operator shall post the notice of coverage letter at a publicly accessible location near an active part of the construction project (e.g., where a pipeline crosses a public road). The operator shall maintain the posted information until termination of general permit coverage as specified in Part I F.”

- b. DEQ staff located the on-site contractor who had the SWPPP in his truck. DEQ staff noticed the SWPPP’s Pollution Prevention Plan upon examination did not describe the location where the potential pollutant-generating activities will occur, identify the person responsible for implementing the pollution prevention plan, or describe the pollution prevention practices and procedures that will be implemented on-site.

9 VAC 25-870-54(A) states in part: “A stormwater pollution prevention plan shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land-disturbing activities....”

9 VAC 25-870-54(D) states, “A pollution prevention plan that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site and describe control measures that will be used to minimize pollutants in stormwater discharges from the construction site must be developed before land disturbance commences.”

9 VAC 25-870-56(A) states in part: “A plan for implementing pollution prevention measures during construction activities shall be developed, implemented, and updated as necessary. The pollution prevention plan shall detail the design, installation, implementation, and maintenance of effective pollution prevention measures as specified in 40 CFR 450.21(d) to minimize the discharge of pollutants...”

2014 Permit Part II (A)(4) states in part that the Pollution Prevention Plan in the SWPPP must include... “(b.) Describe the location where the potential pollutant-generating activities will occur, or if identified on the site plan, reference the site plan,... (d.) Identify the person responsible for implementing the pollution prevention practice or practices for each pollutant-generating activity (if other than the person listed as the qualified personnel), and (e.) Describe the pollution prevention practices and procedures that will be implemented...”

- c. Staff observed that the SWPPP did not identify personnel that were qualified for conducting inspections at this Site.

The 2014 Permit Part II (A) section on stormwater pollution prevention plan contents, states in part that the SWPPP shall include the following items:...(6) “Qualified personnel. The name, phone number, and qualifications of the qualified personnel conducting inspections required by this general permit.”

- d. DEQ staff observed that the SWPPP was not updated or amended to contain a record of dates of major grading activities, the date when construction activities temporarily or permanently ceased, the dates of initiating stabilization measures, and areas that are no longer under the control of the operator.

2014 Permit Part II(B)(1) states that the SWPPP shall be updated no later than seven days following any modification to its implementation. All modifications or updates to the SWPPP shall be noted and shall include the following items: (a.) A record of dates when: (1) Major grading activities occur; (2) Construction activities temporarily or permanently cease on a portion of the site; and (3) Stabilization measures are initiated; ... (4)(d.) All properties that are no longer under the legal control of the operator and the dates on which the operator no longer had legal control over each property.

2014 Permit Part II (B) states in part...(4) The operator shall update the SWPPP no later than seven days following any modification to its implementation. All modifications or updates to the SWPPP shall be noted and shall include the following items:

- a. A record of dates when:
 - (1) Major grading activities occur;
 - (2) Construction activities temporarily or permanently cease on a portion of the site; and
 - (3) Stabilization measures are initiated;
- b. Documentation of replaced or modified controls where periodic inspections or other information have indicated that the controls have been used inappropriately or incorrectly and where modified as soon as possible;
- c. Areas that have reached final stabilization and where no further SWPPP or inspection requirements apply;
- d. All properties that are no longer under the legal control of the operator and the dates on which the operator no longer had legal control over each property;
- e. The date of any prohibited discharges, the discharge volume released, and what actions were taken to minimize the impact of the release;
- f. Measures taken to prevent the reoccurrence of any prohibited discharge; and
- g. Measures taken to address any evidence identified as a result of an inspection required under Part II F.

See also 9VAC 25-870-54(G) described above.

- e. SWPPP inspections were not conducted and recorded at the minimum frequency

and inspection reports do not include all items required by the Permit. DEQ staff observed that the last inspection recorded in the SWPPP was conducted on July 20, 2018.

2014 Permit Part I(B)(4)(d)(1) states that inspections shall be conducted at a frequency of (i) at least once every four business days or (ii) at least once every five business days and no later than 48 hours following a measurable storm event.

Staff observed that two names appeared on the inspection report, at the top one staff member is listed as the Qualified Person/Inspector, but another unidentified person signed the inspection report as the Qualified Person/Inspector and the Operator/Duly Authorized Representative. The unidentified person failed to date the report in both locations.

The 2014 Permit Part II(F)(1) states: “Inspections required by this general permit shall be conducted by the qualified personnel identified by the operator in the SWPPP. The operator is responsible for insuring that the qualified person conduct the inspection.

The 2014 Permit Part II(F)(3) states in part: “As part of the inspection, the qualified personnel shall: (1) Record the date and time of the inspection...” It has already been noted that the SWPPP did not identify qualified personnel for conducting inspections at this Site.

The report is supposed to be conducted to check on E&S controls, but it notes that those items have not been constructed. Staff noted that the inspection reports did not including all the 2014 Permit required items. The report lacked the location(s) of control measures that require maintenance; location(s) of control measures that failed to operate as designed or proved inadequate or inappropriate for a particular location; the location(s) where any evidence identified under Part II F 3 a (7) exists; the location(s) where any additional control measure is needed that did not exist at the time of inspection; a list of corrective actions required (including any changes to the SWPPP that are necessary) as a result of the inspection or to maintain permit compliance; documentation of any corrective actions required from a previous inspection that have not been implemented; and, as previously mentioned, the date and signature of the qualified personnel and the operator or its duly authorized representative.

2014 Permit Part II (F)(4) regarding SWPPP inspection reports states that each inspection report shall include; the date and time of the inspection and when applicable; the date and rainfall amount of the last measurable storm event; a summarized findings of the inspection; the location(s) of prohibited discharges; the location(s) of control measures that require maintenance; the location(s) of control measures that failed to operate as designed or proved inadequate or inappropriate for a particular location; the location(s) where any evidence identified under Part II

(F)(3)(a)(7) exists; the location(s) where any additional control measure is needed that did not exist at the time of inspection; a list of corrective actions required (including any changes to the SWPPP that are necessary) as a result of the inspection or to maintain permit compliance; documentation of corrective actions required from a previous inspection that have not been implemented; and the date and signature of the qualified personnel and the operator or its duly authorized representative.

- f. DEQ staff noticed that post construction BMPs were installed prior to site stabilization. Best management practices were not implemented in accordance with approved stormwater management plans or erosion and sediment control plans.

9 VAC 25-870-54(B) states: “An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by either the VESCP authority or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.”

9 VAC 25-870-54(C) states: “A stormwater management plan consistent with the requirements of the Virginia Stormwater Management Act and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the VSMP authority.”

- g. In addition, DEQ staff observed that both stockpiles on-site were not protected with sediment trapping measures nor had they been stabilized as described in the approved erosion and sediment control plan.

9VAC 25-840-40(2) states: “During construction of the project, soil stock piles and borrow areas shall be stabilized or protected with sediment trapping measures. The applicant is responsible for the temporary protection and permanent stabilization of all soil stockpiles on site as well as borrow areas and soil intentionally transported from the project site.”

See also 9VAC 25-870-54(B) described above.

- h. DEQ staff noted that sediment trapping measures were installed out of construction sequence and not as described in the approved plans. In addition, staff observed sediment passing through, around, and over the silt fences at the Site, which were not installed as described in the Site’s approved erosion and sediment control plan.

9 VAC 25-840-60(A) states in part: “All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function...”

9 VAC 25-840-40(4) states: “Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment shall be constructed as a first step in any land disturbing activity and shall be made functional before upslope land disturbance takes place.”

See also 9VAC 25-870-54(B) described above.

9 VAC 25-870-54 (C) states: “A stormwater management plan consistent with the requirements of the Virginia Stormwater Management Act and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the VSMP authority.”

- i. DEQ staff observed that the on-site diversion dikes, grass channels, and sediment basins were not stabilized and were exhibiting severe erosion.

9 VAC 25-840-40(1) states: “Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site. Temporary soil stabilization shall be applied within seven days to denuded areas that may not be at final grade but will remain dormant for longer than 14 days. Permanent stabilization shall be applied to areas that are to be left dormant for more than one year.”

9 VAC 25-840-40(5) states: “Stabilization measures shall be applied to earthen structures such as dams, dikes and diversions immediately after installation.”

2014 Permit Part II(A)(2)(c) states that a properly implemented erosion and sediment control plan... “(8) Ensures that stabilization of disturbed areas will be initiated immediately whenever any clearing, grading, excavating, or other land-disturbing activities have been permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days.”

See also 9VAC 25-870-54(B) described above.

- j. After review of the Site with the plans, DEQ staff concluded that all five on-site sediment basins were not constructed in accordance with approved plans.

2014 Permit Part II(A)(2)(c) states: “A properly implemented erosion and sediment control plan... ensures that stabilization of disturbed areas will be initiated immediately whenever any clearing, grading, excavating, or other land-disturbing activities have been permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days...”

See also 9VAC 25-870-54(B) and (C) described above.

- k. DEQ Staff also observed that the stormwater conveyance channels were not stabilized, check dams were missing, and there was inadequate outlet protection at every outlet. Erosion and sediment control measures and best management practices were not installed or maintained as required by the approved plans.

9VAC 25-840-40(11) states: “Before newly constructed stormwater conveyance channels or pipes are made operational, adequate outlet protection and any required temporary or permanent channel lining shall be installed in both the conveyance channel and receiving channel.”

- l. DEQ staff observed a stream bank with un-stabilized slopes and encroachment, due to on-site construction activity, along several areas of the stream. As a result, eroded sediment is present in the stream. Secondary impacts to state water have occurred due to lack of appropriately installed and/or maintained erosion and sedimentation control measures and other best management practices.

9 VAC 25-840-40(12) states: “When work in a live watercourse is performed, precautions shall be taken to minimize encroachment, control sediment transport and stabilize the work area to the greatest extent possible during construction. Non-erodible material shall be used for the construction of causeways and cofferdams. Earthen fill may be used for these structures if armored by non-erodible cover materials.”

- m. DEQ staff photographed residual concrete that was washed out on the ground, not into a leak proof settling container or basin as required.

2014 Permit Part II(A)(4)(e)(5) states “Direct concrete wash water into a leak-proof container or leak-proof settling basin. The container or basin shall be designed so that no overflows can occur due to inadequate sizing or precipitation. Hardened concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wastes. Liquid concrete wastes shall be removed and disposed of in a manner consistent with the handling of other construction wash waters and shall not be discharged to surface waters.

9VAC 25-870-56(B) states: “The pollution prevention plan shall include effective best management practices to prohibit the following discharges in accordance with 40 CFR 450.21(e): 1. Wastewater from washout of concrete, unless managed by an appropriate control...”

- n. DEQ staff observed and documented that a bucket, half filled with hydraulic oil, was located on-site, on the ground, directly outside the limits of disturbance. A spill kit or other effective oil spill BMP could not be located on-site.

9 VAC 25-870-56(A) states that a plan for implementing pollution prevention

measures during construction activities shall be developed, implemented, and updated as necessary. The pollution prevention plan shall detail the design, installation, implementation, and maintenance of effective pollution prevention measures as specified in 40 CFR 450.21(d) to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:... (2.) minimize the exposure of materials present on site to precipitation and stormwater.

9 VAC 25-870-56(B) states in part: “The pollution prevention shall include effective best management practices to prohibit the following discharges in accordance with 40 CFR 450.21(e)...3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.”

2014 Permit Part II(A)(4)(e)(1) states: “Prevent and respond to leaks, spills, and other releases including (i) procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases; and (ii) procedures for reporting leaks, spills, and other releases in accordance with Part III G...”

8. On October 24 2018, the Department issued Notice of Violation (NOV) No. 2018-09-PRO-202 to Huguenot Woods citing it for the violations observed during the September 18, 2018 DEQ inspection.
9. On November 15, 2018, the Department met with Huguenot Woods to discuss the NOV and the issuance of a Consent Order. The Department conducted follow up inspections on November 28, 2018, May 28, 2019, August 6, 2019, October 8, 2019, December 5, 2019, January 29, 2020, and March 4, 2020.
10. The Department has not issued coverage under any permit or certificate to Huguenot Woods other than under the 2014 Permit and 2019 Permit.
11. Bernard’s Creek is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
12. Based on the results of the September 18, 2018, November 28, 2018, May 28, 2019, August 6, 2019, October 8, 2019, December 5, 2019, January 29, 2020, and March 4, 2020, inspections, and the meeting on November 15, 2018, the Board concludes that Huguenot Woods violated 9 VAC 25-870-54(A), 9 VAC 25-870-54(B), 9 VAC 25-870-54(C), 9 VAC 25-870-54(D), 9 VAC 25-870-54(G), 9 VAC 25-870-56(A), 9 VAC 25-870-56(B), 9 VAC 25-840-40(1), 9 VAC 25-840-40(2), 9 VAC 25-840-40(4), 9 VAC 25-840-40(5), 9 VAC 25-840-40(11), 9 VAC 25-840-40(12), 9 VAC 25-840-60(A), the conditions of Parts I(B)(4)(d)(1), II(A)(1)(b), II(A)(2), II(A)(2)(c), II(A)(3), II(A)(4), II(A)(4)(e)(1), II(A)(4)(e)(5), II(A)(6), II(C), II(D)(3), II(B)(1), II(B)(4), II(F)(3), II(F)(4), II(E)(1), of the 2014 Permit, the conditions of Sections II(B)(2)(c)(8), II(B)(5)(b)(1), II(F)(1), II(F)(2) of the 2019 Permit, and the conditions of the State Permits by discharging stormwater from a

construction activity while concurrently failing to comply with the 2014 and 2019 Permits, as described in Section C above.

13. In order for Huguenot Woods to return to compliance, DEQ staff and Huguenot Woods have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Huguenot Woods, and Huguenot Woods agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$18,200 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Huguenot Woods shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Huguenot Woods shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Huguenot Woods for good cause shown by Huguenot Woods, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2)

seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Huguenot Woods admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Huguenot Woods consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Huguenot Woods declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Huguenot Woods to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Huguenot Woods shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Huguenot Woods shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Huguenot Woods shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Huguenot Woods. Nevertheless, Huguenot Woods agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Huguenot Woods has completed all of the requirements of the Order;
 - b. Huguenot Woods petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Huguenot Woods.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Huguenot Woods from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Huguenot Woods and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Huguenot Woods certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Huguenot Woods to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Huguenot Woods.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Huguenot Woods voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2021.

James J. Golden
Department of Environmental Quality
Piedmont Regional Director

.....The remainder of the page left intentionally blank.....

Huguenot Woods, LLC voluntarily agrees to the issuance of this Order.

Date: July 13, 2021 By: Greg Amaral, Manager
(Person) (Title)
Huguenot Woods, LLC

Commonwealth of Virginia
City/County of Franklin

The foregoing document was signed and acknowledged before me this 13th day of
July, 2021, by Greg Amaral who is
Manager of Huguenot Woods, LLC, on behalf of the company.

Robert H Downey
Notary Public

7732020
Registration No.

My commission expires: 9/30/21

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Huguenot Woods shall:

1. Within ninety (90) days of the issuance of this Order, ensure that the channels above the stream, noted and photographed in the March 4, 2020, inspection report, have been properly stabilized in accordance with 9VAC25-840-40.11 and the ESC/SWM approved plans and submit photographic documentation to the Department.
2. DEQ Contact

Unless otherwise specified in this Order, Huguenot Woods shall submit all requirements of Appendix A of this Order to:

**Frank Lupini
Enforcement Specialist
VA DEQ –Piedmont Regional Office
4949A Cox Road,
Glen Allen, Virginia 23060
Frank.Lupini@deq.virginia.gov**